



NU DASMARIÑAS

GESTS01X – Science, Technology and Society

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Week 10 – IP & Data Privacy

National Intellectual Property Strategy

The National Intellectual Property Strategy (NIPS) is an agenda to harness Intellectual Property (IP) for innovation, creativity, and knowledge generation; for entrepreneurship and competitiveness; and to achieve public policy goals such as universal access to health care, agricultural self-sufficiency, and inclusive growth.

It aims to support the goals and targets of the Philippine Development Plan (PDP) 2017-2022—particularly in the areas of science, technology and innovation, industry, education and culture—as well as the 0 + 10 Ten-Point Socio-Economic Agenda of the Philippine government.



Patent: An invention patent is a government-issued grant, bestowing an exclusive right to an inventor over a product or process that provides any technical solution to a problem in any field of human activity which is **new, inventive, and industrially applicable**.

Benefits:

A patent is an exclusive right that allows the inventor to exclude others from making, using, or selling the product of his invention during the life of the patent. Patent owners may also give permission to, or license, other parties to use their inventions on mutually agreed terms. Owners may also sell their invention rights to someone else, who then becomes the new owner of the patent.

Eligibility

The Intellectual Property Code of the Philippines sets three conditions for an invention to be deemed patentable: it has to be new, involves an inventive step, and industrially applicable.

Terms of Protection

The term of a patent shall be twenty (20) years from the filing date of the application. The patent must be maintained yearly, starting from the 5th year.



Utility Model: A registrable utility model is any technical solution to a problem in any field of human activity which is new and industrially applicable. It **may or may not have an inventive step.**

Benefits

A Utility Model (UM) allows the right holder to prevent others from commercially using the registered UM without his authorization, provided that the UM is new based on the Registrability Report. Compared with invention patents, it is relatively inexpensive, faster to obtain, and with less stringent patentability requirements.

Eligibility

Any technical solution of a problem in any field of human activity which is new and industrially applicable shall be registrable.

The provisions regarding “Non-Patentable Inventions” as provided for in Part 2, Rule 202 of the Regulations for Patents shall apply, mutatis mutandis, to non-registrable utility models:

1. Discoveries, scientific theories and mathematical methods;
2. Schemes, rules and methods of performing mental acts, playing games or doing business, and programs for computers;

3. Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body. This provision shall not apply to products and composition for use in any of these methods;
4. Plant varieties or animal breeds or essentially biological process for the production of plants or animals. This provision shall not apply to micro-organisms and non-biological and microbiological processes.
5. Provisions under this subsection shall not preclude Congress to consider the enactment of a law providing sui generis protection of plant varieties and animal breeds and a system of community intellectual rights protection:
6. Aesthetic creations; and
7. Anything which is contrary to public order or morality.

Term of Protection

A utility model is entitled to seven (7) years of protection from the date of filing, with no possibility of renewal.



Industrial Design: An industrial design is the ornamental or aesthetic aspect of an article. Design, in this sense, may be three-dimensional features (shape or surface of an article), or the two-dimensional features (patterns or lines of color). Handicrafts, jewelry, vehicles, appliances - the subject of industrial designs range from fashion to industrial goods.

Benefits

The owner of a registered industrial design has the right to prevent third parties from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.

Eligibility

In order to be registrable, an industrial design must be a new or original creation. The following industrial designs shall not be registrable:

- (a) Industrial designs that are dictated essentially by technical or functional considerations to obtain a technical result;
- (b) Industrial designs which are mere schemes of surface ornamentations existing separately from the industrial product or handicraft; and
- (c) Industrial designs which are contrary to public order, health, or morals.

Term of Protection

The registration for an industrial design is for a period of 5 years from the filing date of the application. The registration of an industrial design may be renewed for not more than two (2) consecutive periods of five (5) years each by paying a renewal fee. The fee should be paid within a year of the expiration of the registration.



Trademark: A trademark is a word, a group of words, sign, symbol, logo or a combination thereof that identifies and differentiates the source of the goods or services of one entity from those of others.

Benefits

A trademark protects a business' brand identity in the marketplace.

Registration of it gives the owner the exclusive rights to prevent others from using or exploiting the mark in any way.

Aside from being a source-identifier, differentiator, quality indicator, and an advertising device, a protective mark may also bring another stream of income to the owner through licensing or franchising.

Eligibility

The Intellectual Property Code of the Philippines prescribes grounds for non-registrability.

Term of Protection

A trademark can be protected in perpetuity if regularly monitored and properly maintained.

The period of protection is ten (10) years from the date of issuance and is renewable for a period of ten (10) years at a time.

Copyright: Copyright is the legal protection extended to the owner of the rights in an original work. “Original work” refers to every production in the literary, scientific and artistic domain.

Among the literary and artistic works enumerated in the IP Code includes books and other writings, musical works, films, paintings and other works, and computer programs.

Copyright laws grant authors, artists and other creators automatic protection for their literary and artistic creations, from the moment they create it.

Benefits

The creators of works protected by copyright hold the exclusive right to use or authorize others to use the work on agreed terms.

The right holder(s) of a work can authorize or prohibit: its reproduction in all forms, including print form and sound recording, public performance and communication to the public, broadcasting, translation into other languages, and adaptation, such as from a novel to a screenplay for a film.

Eligibility

Works covered by copyright that can be deposited with IPOPHL are, but are not limited to: novels, poems, plays, reference works, newspapers, advertisements, computer programs, databases, films, musical compositions, choreography, paintings, drawings, photographs, sculpture, architecture, maps and technical drawings.

Term of Protection

The term of protection for copyright in literary and artistic works, and in derivative works is generally the lifetime of the author plus fifty (50) years. Different rules may apply, however in:

- Works of joint authorship
- Works of anonymous or pseudonymous works
- Photographic works
- Works of applied art
- Audio-visual works

Data Privacy Rights

Under RA10173, people whose personal information is collected, stored, and processed are called data subjects. Organizations who deal with your personal details, whereabouts, and preferences are dutybound to observe and respect your data privacy rights.

Your Data Privacy Rights



The right to be informed

Under R.A. 10173, your personal data is treated almost literally in the same way as your own personal property. Thus, it should never be collected, processed and stored by any organization without your explicit consent, unless otherwise provided by law. Information controllers usually solicit your consent through a consent form. Aside from protecting you against unfair means of personal data collection, this right also requires personal information controllers (PICs) to notify you if your data have been compromised, in a timely manner.

As a data subject, you have the right to be informed that your personal data will be, are being, or were, collected and processed.

The Right to be Informed is a most basic right as it empowers you as a data subject to consider other actions to protect your data privacy and assert your other privacy rights.



The right to access

This is your right to find out whether an organization holds any personal data about you and if so, gain “reasonable access” to them. Through this right, you may also ask them to provide you with a written description of the kind of information they have about you as well as their purpose/s for holding them.

Under the Data Privacy Act of 2012, you have a right to obtain from an organization a copy of any information relating to you that they have on their computer database and/or manual filing system. It should be provided in an easy-to-access format, accompanied with a full explanation executed in plain language.

You may demand to access the following:

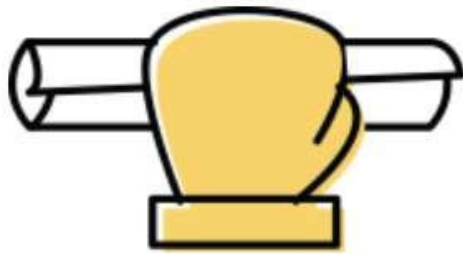
- The contents of your personal data that were processed.
- The sources from which they were obtained.
- Names and addresses of the recipients of your data.
- Manner by which they were processed.
- Reasons for disclosure to recipients, if there were any.
- Information on automated systems where your data is or may be available, and how it may affect you.
- Date when your data was last accessed and modified
- The identity and address of the personal information controller.



The right to object

You can exercise your right to object if the personal data processing involved is based on consent or on legitimate interest. When you object or withhold your consent, the PIC should no longer process the personal data, unless the processing is pursuant to a subpoena, for obvious purposes (contract, employer-employee relationship, etc.) or a result of a legal obligation.

In case there is any change or amendment to the information previously given to you, you should be notified and given an opportunity to withhold consent.



The right to erasure or blocking

Under the law, you have the right to suspend, withdraw or order the blocking, removal or destruction of your personal data. You can exercise this right upon discovery and substantial proof of the following:

1. Your personal data is incomplete, outdated, false, or unlawfully obtained.
2. It is being used for purposes you did not authorize.
3. The data is no longer necessary for the purposes for which they were collected.
4. You decided to withdraw consent, or you object to its processing and there is no overriding legal ground for its processing.
5. The data concerns information prejudicial to the data subject — unless justified by freedom of speech, of expression, or of the press; or otherwise authorized (by court of law)
6. The processing is unlawful.
7. The personal information controller, or the personal information processor, violated your rights as data subject.





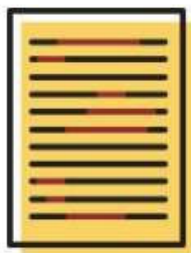
The right to damages

You may claim compensation if you suffered damages due to inaccurate, incomplete, outdated, false, unlawfully obtained or unauthorized use of personal data, considering any violation of your rights and freedoms as data subject.



**The right
to file a complaint**

If you feel that your personal information has been misused, maliciously disclosed, or improperly disposed, or that any of your data privacy rights have been violated, you have a right to file a complaint with the National Privacy Commission (NPC).



The right to rectify.

You have the right to dispute and have corrected any inaccuracy or error in the data a personal information controller (PIC) hold about you. The PIC should act on it immediately and accordingly, unless the request is vexatious or unreasonable. Once corrected, the PIC should ensure that your access and receipt of both new and retracted information. PICs should also furnish third parties with said information, should you request it.



The right to data portability

This right assures that YOU remain in full control of YOUR data.

Data portability allows you to obtain and electronically move, copy or transfer your data in a secure manner, for further use. It enables the free flow of your personal information across the internet and organizations, according to your preference. This is important especially now that several organizations and services can reuse the same data.

Data portability allows you to manage your personal data in your private device, and to transmit your data from one personal information controller to another. As such, it promotes competition that fosters better services for the public.

Limitations on Rights

The provisions of the law regarding transmissibility of rights and the right to data portability will not apply if the processed personal data are used only for the needs of scientific and statistical research and, based on such, no activities are carried out and no decisions are taken regarding the data subject. There should also be an assurance that the personal data will be held under strict confidentiality and used only for the declared purpose.

They will not also apply to the processing of personal data gathered for investigations in relation to any criminal, administrative or tax liabilities of a data subject. Any limitations on the rights of the data subject should only be to the minimum extent necessary to achieve the purpose of said research or investigation.



Create **strong** passwords.

Never use the same password on multiple accounts.

Lock your device.

Always **log out** of browsers.

Make sure there is **an https** in the browser address bar.

Do not log in on personal accounts on **free or public wifi**.

Install an Anti-Virus...and **update** it.

Don't click on pop-ups or virus warnings.





References:

1. <https://www.ipophil.gov.ph/services>
2. https://www.privacy.gov.ph/know-your-rights/#topic7_part9